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PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 15 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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The meeting was called to order at 10.10 a.m.

CONTEMPORARY FORMS OF SLAVERY (agenda item 15) (continued)
(E/CN.4/Sub.2/1996/24, E/CN.4/Sub.2/1996/25 and Add.1, E/CN.4/Sub.2/1996/26, E/CN.4/Sub.2/1996/NGO/19 and E/CN.4/1996/100)

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS:

(a) THIRTIETH ANNIVERSARY OF THE ADOPTION OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS;

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH;

(c) HUMAN RIGHTS AND DISABILITY (agenda item 16) (continued)

(E/CN.4/Sub.2/1996/27, E/CN.4/Sub.2/1996/34 and E/CN.4/Sub.2/1996/NGO/22)

1. Mrs. PARKER (International Educational Development) referred to the excellent report by Mr. Despouy on "Human rights and disability" (United Nations publication, Sales No. E.92.XIV.4), which called particular attention to the interrelationship between violations of the rules of war and disability. War, even when conducted in full compliance with the Hague and Geneva Conventions and all other rules of humanitarian law, was unavoidably both physically and psychologically harmful to military personnel, whose medical needs must be provided by the parties to the conflict, under the Geneva Convention. Nevertheless, when military operations were carried out in violation of the rules of war, Governments had to deal with a large number of "unplanned-for" cases of disability, most of which were avoidable. That entailed a double violation: illegal military operations, on the one hand, and failure to meet the obligation to provide for the victims' medical needs on the other.

2. In the case of the Gulf war, there had been a fivefold violation: the number of civilian casualties in Iraq had been far too high to be considered "accidental", in other words the rule that military operations should be proportional to the military objective had not been respected; the victims of those illegal military operations had neither been treated nor compensated by the party responsible for their injuries, namely, the United States; during the conflict that country had used not only conventional weapons but also nuclear weapons containing depleted uranium (hence radioactive), which continued to produce injuries and disabilities; the United States was attempting to cover up both its use of nuclear weapons and the illegal military operations; furthermore, it had actively tried to prevent other persons and groups from providing medical relief to the victims by interpreting the United Nations sanctions against Iraq to include sanctions against humanitarian aid - which was none the less protected by the Geneva Conventions - by adopting domestic laws to that effect. That had led to a high number of deaths and permanent disabilities, especially among children. At least 350 tonnes of discards still sat in southern Iraq, and there were no

plans to address the massive nuclear pollution. Abnormally high rates of cancer were being reported among Iraqi civilians, along with a high number of congenital birth defects among the newborn.

3. Her organization therefore urged the Sub-Commission once again to adopt a resolution expressing concern for the humanitarian situation in Iraq and recommending that the United States should immediately dispose of the depleted uranium waste it had left in Iraq and provide adequate financial and medical resources for the injured or disabled persons.

4. Mr. ZA BALA (World Federation of Democratic Youth) drew the attention of the Sub-Commission once again to the situation of young people in Western Sahara, which had been occupied for 20 years by the Moroccan army. Those children were victims of cruel violations of their rights, particularly their economic and social rights. More than a thousand of them had gone to Rabat on 1 August 1996 as part of a peaceful demonstration, to draw attention to their right to work and to decent living conditions. The police had closed most of them off in a sports complex and forced others to return home. On 8 August 1996, some young people had been wounded following confrontations with the Moroccan police.

5. The CHAIRMAN drew the speaker's attention to the fact that his statement was concerned not with agenda item 16 but with item 6, consideration of which had concluded.

6. Mr. SCHOENFELD (World Organization against Torture) said that, in 1995, the number of reported cases of violations of children's human rights and torture of children had risen by 30 per cent and was likely to increase even more in 1996. The real level remained hidden.

7. In Israel, for example, land confiscation had had extremely serious implications for the rights of the child. In the village of Al-Samou, near Hebron, which the Israeli authorities had decided to demolish in June 1996, 16 minors had been arrested for resisting the bulldozing operations. They had been subjected to acts of violence during their interrogation, which had lasted for several days. The Committee against Torture had expressed its deep concern at the Israeli methods of interrogation. Such acts were committed in total violation not only of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but also of other human rights instruments, ratified by Israel, that safeguarded such things as the right to housing. Such acts of violence against children could only damage the climate of trust essential to the search for a lasting peace in the region.

8. At the fifty-second session of the Commission on Human Rights, his organization had denounced the situation in Bahrain, where more than 100 children had been arrested as part of the internal conflicts, and had been beaten, raped, threatened denied access to their families, and tried without even the most basic legal safeguards.

9. Another violation of the rights of children on all continents was the detention of children with adults, which posed grave risks to minors, who were

particularly vulnerable to mistreatment by adults. In Honduras, for example, 261 cases had been documented of children detained with adults, and 12 of them had been cruelly mistreated by other inmates.

10. At its latest session, the Commission on Human Rights had urged States to separate minors from adults in detention centres, but the gravity of the situation required further action at the international level. His organization regretted that the definition of torture contained, for example, in the Convention against Torture had not been adopted by all States, including those that had ratified it. It could well be asked to what extent the definition of torture contained in the international instruments offered sufficient protection in the case of minors. His organization had submitted a document on that subject to the Committee on the Rights of the Child. The lack of clarity at the international level about protection of children could only translate into abuse at the national level. In that connection, it would be useful, as the Special Rapporteur on torture had done in his latest report, for other bodies, including Working Groups and the thematic rapporteurs of the Sub-Commission, to address that grave problem.

11. Mr. MAEDA (International Association of Democratic Lawyers (IADL)), speaking also on behalf of the Japanese Association for Human Rights of Koreans in Japan, informed the Sub-Commission about three recent events concerning violations of the rights of Korean children in Japan.

12. On 10 April 1996, a Korean schoolboy had been attacked and severely injured by a Japanese in front of crowds of people. It was part of a long series of such incidents in Japan, where many Korean schoolgirls had already been assaulted in public by Japanese armed with daggers, who had ripped their national costume (chima-chogori). The Japanese Government had never taken any effective measures against that violence, although the IADL had already denounced the problem on three occasions to the Commission on Human Rights. On 8 August 1996, a high-ranking official in the Japanese Government, Mr. Kajiyama, had officially stated that the Japanese army would do nothing if the Korean organizations in Japan started to fight among themselves. That statement had astonished and disappointed peace-loving, sensible people in Japan and Korea. In October 1995, the Japanese Government had invalidated the decision taken by the municipal authorities in Kawasaki to put Korean schools on the same footing as Japanese schools. Foreign schools in Japan were not officially recognized, and the students of Korean schools could not even take entrance examinations for the State-run universities.

13. Korea had been colonized by Japan in 1905, more than a million Koreans had been displaced and forced to work in Japan, and hundreds of Korean women had been systematically raped by Japanese soldiers. Since Japan's surrender in August 1945, its Government had never offered an apology to the victims and had continually rejected the demands for compensation. Today, it was violating the human rights of the children of the Korean war victims. IADL hoped that the Sub-Commission would pay due attention to the discrimination taking place in one of the world's most economically powerful countries.

14. Mrs. FATIO (Baha'i International Community) said that the influence of new technologies on the upbringing of children could not be denied. Radio and television programmes were often of high educational value, and information

about other cultures, science, music and the arts opened up the minds of children. Children were, however, also an ideal market for unscrupulous producers of programmes, films and books, who tried to influence society through them. A considerable number of programmes were produced based on violence, sex and crime, and their harmful influence had already been amply demonstrated by child psychologists. In the United States, for example, by the age of 18 an American child had already seen more than 200,000 acts of violence on television. Most video games focused on killing as the prime method for resolving conflicts. The models now being put forward for children were highly questionable and the stereotyping of women in the media could prove to be psychologically detrimental to girls. The media must acquire a sense of responsibility towards their audiences and strive to use the new technology in programmes that were designed with the best interests of the child in mind.

15. The NGO Sub-group on Education, Literacy and Mass Media had been very concerned after its analysis of 49 State party reports under the Convention on the Rights of the Child that most of the States concerned were not fully implementing article 17 of the Convention. The effectiveness of the protection guidelines presented by Governments in their reports should therefore be examined by the Committee on the Rights of the Child. In an increasingly complex world where values were continuously undermined, parents, especially those from disadvantaged environments, needed more and more help with the upbringing of children.

16. Mr. HATANO said that his statement of 14 August on the way in which ILO Convention No. 29 concerning forced labour was applicable to sexual slavery in times of armed conflict was in no way concerned with Japan and was motivated solely by academic curiosity. In paragraph 29 of her preliminary report (E/CN.4/Sub.2/1996/26), Mrs. Chavez had included ILO Convention No. 29 among the international instruments applicable to sexual slavery in wartime, without indicating that article 2, paragraph 2 (d), of that Convention excluded from the definition of "forced or compulsory labour" "any work or service exacted in cases of emergency, that is to say, in the event of war". It would doubtless have been advisable to have mentioned the existence of that proviso in the preliminary report and to have briefly explained why the Convention was none the less applicable to "forced labour" during wartime.

17. He had not the slightest intention of questioning the fact that the ILO Committee of Experts on the Application of Conventions and Recommendations had decided that the Convention was applicable to Japan during and prior to the Second World War, since he had not been concerned about Japan in his statement. His question had had to do with whether the competence of a body established to monitor application of an international instrument could be broader in scope than that of a court to which a difference of opinions between contracting parties on the interpretation or application of a treaty would be referred. It seemed to him that the Committee of Experts had been authorized to be more liberal than ordinary courts in interpreting the provisions of ILO Conventions.

18. Again, he was not sure of the extent to which the findings of the Committee of Experts could have a retroactive effect. Value systems were very

changeable, and it was risky to judge the legality or illegality of an act that had taken place 50 years earlier by the yardstick of the present value system. It might also cause a conflict with domestic laws.

19. He therefore hoped that Mrs. Chavez would examine the question in detail and express her views in her final report to the Sub-Commission.

20. Mr. BOSSUYT, speaking on agenda item 15, said that, as was customary, the role of NGOs in the work of the Working Group on Contemporary Forms of Slavery had been very important and constructive, and in particular he wished to mention the contributions of Anti-Slavery International and the Action for Children Campaign.

21. He would draw the attention of the Sub-Commission more particularly to the recommendation on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. The Fund's situation was far from encouraging, and Governments should respond favourably to requests for contributions. He had some reservations about the appeal made to the private sector. A fund created within an intergovernmental organization should receive donations from public funds and not private funds, for the latter could well make intergovernmental organizations and non-governmental organizations compete with one another for fund-raising on the private market. An attempt should be made to limit the Fund's operating expenses, and the suggestion made to the Secretary-General that the mandate of the Fund's Board of Trustees should be assigned to the Working Group seemed extremely pertinent.

22. With regard to the traffic in human organs and tissue, the information provided by Interpol that there could be no certainty or any tangible proof as to the existence of such traffic was indeed troubling. It was to be hoped that the inquiries requested by the Working Group of different bodies would confirm the truth of the Interpol statements.

23. As for the situation of migrant workers, the Working Group had been struck by the breadth and the dramatic consequences of the practice followed in a number of countries of confiscating the passports from migrant workers, particularly those who worked as domestics. For that reason, it had called on States to take the necessary steps to punish employers who acted in that way.

24. With reference to the elimination of violence against women, he agreed with members of the Sub-Commission who had welcomed the information provided by the Japanese Government on steps taken on behalf of women victims of sexual slavery during the Second World War. Since they were all at least 70 years old, there should be no more equivocating about the forms of compensation Japan was ready to grant them.

25. An observation was attributed to him in paragraph 101 of the report of the Working Group (E/CN.4/Sub.2/1996/24) and he would point out that, to surmount the problems raised by the consequences of slavery in Mauritania, attitudes would have to change. It was important to know that slavery in Mauritania was not the result of a deliberate government policy, but a social phenomenon. Its after-effects should be combated and efforts stepped up, but it was regrettable that the international community had failed to provide Mauritania with concrete assistance in that regard. As to slavery in the

classic sense of the word, the Sub-Commission's attention should be drawn in particular to the Sudan, which had not shown any real readiness to cooperate, although substantial testimony had been provided in the course of the session on the persistence of slavery in that country.

26. Mrs. DAES said that the information provided in the section on migrant workers of the report of the Working Group on Contemporary Forms of Slavery was particularly useful. The operation, which consisted of grouping together the unemployed, cheating them of their lifetime's savings and sending them to another country promising them a wage, passport and work permit, had become a thriving business, and the victims found themselves in tragic situations in many countries of the world. For that reason, the Working Group should collect as much information as possible on those new forms of exploitation of migrant workers.

27. The section on war crimes and crimes against humanity of the preliminary report on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26), which was of high quality, should perhaps have been further developed.

28. Mrs. PALLEY congratulated the Working Group on Contemporary Forms of Slavery on its excellent report. She too appreciated the contributions made by NGOs, which had done a lot to combat slavery. The important action and cooperation of the International Labour Organization (ILO) particularly in the areas of debt bondage and child labour, was welcome. In that regard, the Sub-Commission should seriously consider the situation in the Sudan, where there were a number of child soldiers and child slaves, and in Myanmar, where there was systematic use of forced labour involving children, particularly for infrastructure projects.

29. The report on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict was also extremely interesting. With regard to Japan, nothing had been done to compensate the prisoners of war who had been turned into slaves during the war. However, positive, if still inadequate, steps had been taken by the Japanese Government in regard to the "comfort women". Although at first she had been somewhat sceptical about the use of private funds to compensate victims, she had since changed her mind and now believed that the establishment of such a fund would enable the Japanese public to participate. Accordingly, it should not be forgotten that an unshakeable commitment to principles was often the worst enemy of peace. It so happened that the Government had adopted a particularly rigid attitude in legal terms, because it believed that all of the problems had been settled by treaties concluded after the war. On their side, the victims had also adopted a position of principle and felt that they would not recover their dignity unless the Government compensated them and officially recognized its responsibility. In her opinion, both parties were wrong. The best solution would be for the Japanese Government to pay the victims a token amount for their rehabilitation. In any event, the question should remain under consideration and the Sub-Commission should encourage the Government to pursue its efforts to solve the problem, especially as the victims were already relatively elderly.

30. Mr. LINDGREN ALVES said that, unlike Mr. Bossuyt, he supported the idea of asking the private sector to contribute to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. States appeared to be incapable of solving the great problems of society at present, and he did not see why international civil society could not contribute to such a positive undertaking.

31. At previous sessions he had expressed doubts as to the existence of a traffic in human organs and tissue. It was gratifying that some experts had taken note of the information from Interpol that there was no certainty and no tangible proof of such traffic.

32. Regarding the question of forced labour, the notion of the indivisibility of human rights must not be lost sight of. Even if there was no question of militating on behalf of a new world economic order, it was still true that civil and political rights could not be respected in the absence of economic, social and cultural rights. The market culture currently under development was primarily responsible for a situation in which, for example, there were cases of forced labour. It was to be hoped that the Sub-Commission would not go along with the trend of attaching less importance to economic, social and cultural rights, and that at its next session it would devote more time to that aspect of human rights.

33. Mr. EL-HAJJE said the report on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict was extremely interesting, but a number of the subjects it dealt with had already been covered by other international forums. In order to avoid duplication and repetition, the final report should focus on the causes, consequences and means of preventing such practices.

34. Mr. SOKHONA (Observer for Mauritania), speaking in exercise of the right of reply, said with regard to the information contained in paragraphs 100 to 103 of the report of the Working Group on Contemporary Forms of Slavery, that slavery was a historical phenomenon that all countries in the Sudano-Sahelian region had known. It had disappeared little by little under the influence of the gradual deterioration of the traditional system once it came into contact with modern ideas, economic and social transformations, and thanks also to the actions of the public authorities. At present, in Mauritania the descendants of former slaves enjoyed the same rights as did the rest of the population. The Mauritanian Government endeavoured to meet all the needs of all its citizens, whatever their origin. To combat the after-effects of slavery, social and economic development should be pursued and democracy guaranteed. That was what the Mauritanian authorities were attempting to do. It was regrettable that some people were using the topic of slavery for personal ends, but Mauritania would continue to make every effort to improve the economic, social and intellectual level of all Mauritanians.

35. Mrs. EL-HAJJAJI (Observer for the Libyan Arab Jamahiriya), recalling that Libya had been behind the Proclamation of 1981 as the International Year of Disabled Persons, said that her country was doing a lot for disabled persons. It was providing them with housing and land, implementing educational and reinsertion programmes, guaranteeing work suitable to those

who were able to work and gave tax exemptions on special equipment for the disabled. Libya respected the dignity of persons with disabilities and considered that they should be treated equally and had a role to play in society.

36. Pointing out that the majority of disabled persons in Libya were victims of the Second World War, she appealed to the international community to cooperate with her country in eliminating the after-effects of that war, calling for assistance from the States responsible. Just when Libya had been in the process of acceding to international human rights instruments, the Security Council had decided to impose sanctions against it, which had prevented it from respecting its obligations under those instruments. The imposition of the sanctions, which complicated in particular the supply of vaccines, had led to an increased number of disabled persons in Libya and made it difficult to obtain re-education material. A study should be undertaken of the consequences of the Security Council sanctions on vulnerable groups of society. Libya also appealed to the international community to renounce its policy of sanctions, as that policy hindered the enjoyment of human rights and fundamental freedoms and was responsible for the increased number of disabilities. Her Government had read with interest the report on human rights and disability (E/CN.4/Sub.2/1996/27) and supported the recommendations it contained therein. As to the need to provide information on measures taken to alleviate the suffering of persons with disabilities, an exemption should be given to those States who had suffered embargoes imposed by the Security Council. Rather those States should provide information on the effects of the sanctions on their population. It was time to put an end to internal wars, which had serious consequences for the population.

37. Mr. AL-DORY (Observer for Iraq) said that the considerable efforts his country had exerted to improve the situation of children in social, economic, cultural and health terms had come to nought because of the economic blockade imposed since 1990. The health situation was continually deteriorating and, according to the Assistant Regional Director of the World Health Organization (WHO), Iraq was 50 years behind. All the health indicators were alarming: infant and post-infant mortality rates had risen respectively from 28 to 64 per thousand and 48 to 80 per thousand between 1990 and 1994 as a result of malnutrition and a strong increase in infectious diseases.

38. The continuation of the blockade also had psychological, social and educational ramifications for Iraqi families and children, who suffered from deprivations and frustrations. A large number of children were also forced to leave school and work in order to help their families. Children deprived of their most basic needs could be neither mature nor productive. They would not be able to protect their rights or respect those of others. His Government hoped that the Sub-Commission would help to put an end to the suffering of Iraqi children and to the violations against them.

39. Mr. NAZARIAN (Observer for Armenia) said that, from the very moment Armenia had regained its independence, it had demonstrated its adherence to democratic values and the rule of law. Parliament and the President of the Republic had been elected in free and regular elections, and the first-ever Armenian Constitution, adopted by referendum on 5 July 1995, guaranteed

respect for all human rights and filled a gap in the law by allowing the legislature to enact laws aimed expressly at protecting human rights. The law had been progressively amended and brought into line with international norms, and Armenia had acceded to a number of international human rights instruments. Another step towards democracy had been the creation in Yerevan in autumn 1995 of the Centre for Democracy and Human Rights. The Centre, financed by international donors, was entirely independent of the Government but cooperated with government bodies. Among other initiatives, it had permitted the inspection of penal institutions by human rights experts, journalists and representatives of NGOs. The establishment on 6 February 1996 of the Constitutional Court had been the first of the radical reforms undertaken at the judicial level. In recognition of Armenia's achievements in promoting and protecting human rights, the Council of Europe had granted it special guest status in January 1996.

40. The Armenian Government realized that the protection of human rights was an unending process. Human rights violations occurred in Armenia, as in all countries. Each case was examined thoroughly by the competent authorities and the guilty were punished, with further measures taken to prevent future infringements. In addition to the alignment of national legislation with international norms and the adoption of laws and regulations aimed at ensuring the implementation of the international human rights instruments, the Government had taken steps to monitor compliance with the law by citizens and government bodies and to educate the people through broad dissemination of information on human rights issues.

41. Mr. AL-HADDAD (Observer for Bahrain), speaking in exercise of the right of reply, said that the information provided about his country earlier by the World Organization against Torture was incorrect. Bahrain had submitted comprehensive information on the question of torture to the Commission on Human Rights at its later session. It should be remembered that, for more than two years, Bahrain had been a victim of a plot by certain terrorists who resorted to violence and terror in trying to overthrow the regime. Those terrorists, who were trained in Iran and in the Bekaa and received their instructions from London, carried out all manner of attacks which left numerous victims among the innocent population. His Government would spare no effort to ensure the protection and promotion of human rights. It intended to develop its system of consultations and had recently divided the country into districts in order better to ensure the protection of those rights. The people of Bahrain were tolerant, and they rejected violence and terrorism.

42. The CHAIRMAN said that the Sub-Commission had thus concluded its consideration of agenda items 15 and 16.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 12) (E/CN.4/Sub.2/1995/23 and E/CN.4/1995/74)

INTERNATIONAL PEACE AND SECURITY AS AN ESSENTIAL CONDITION FOR THE ENJOYMENT OF ALL HUMAN RIGHTS, ABOVE ALL THE RIGHT TO LIFE (agenda item 13) (E/CN.4/Sub.2/1994/29)

IMPLICATIONS OF HUMANITARIAN ACTIVITIES FOR THE ENJOYMENT OF HUMAN RIGHTS (agenda item 19)

43. Mr. WEISSBRODT, addressing one particular aspect of the question of human rights and scientific and technological developments, said that the Internet and the new system of electronic communications known as the World Wide Web presented not just risks but also some very interesting possibilities for human rights education and the dissemination of human rights materials. If the Web remained beyond the financial and material reach of most people, millions of people throughout the world - and not just in the most developed countries, but also in such countries as Bangladesh, Egypt, Kazakstan, Uganda and Uruguay - could consult it 24 hours a day, seven days a week, for information on human rights.

44. The human rights library, which allowed free access on the Internet, contained the texts of more than 90 international human rights instruments in English, French and Spanish, as well as information on the ratification of those instruments and the work of the United Nations human rights bodies, including reports of the Sub-Commission and the thematic and country reports of the Commission on Human Rights. It was also possible to consult the full text of general comments and recommendations of all six human rights treaty-monitoring bodies, the decisions of the Human Rights Committee over the past five years, information on the work of the International Criminal Tribunals for the former Yugoslavia and Rwanda, and the decisions and advisory opinions of the Inter-American Court of Human Rights and Inter-American Commission on Human Rights. The bibliography contained much that was otherwise difficult to access in regular libraries.

45. Many international and non-governmental organizations used the Web to provide information about their activities. UNHCR had been a pioneer in that regard. The United Nations Department of Public Information distributed the daily press releases of the Sub-Commission through the Web. Since books were increasingly expensive and often difficult to obtain, the Web offered an alternative form of communication. It was particularly useful for those who were beginning to use electronic mail and computers in their research and work on human rights.

46. He appreciated the work done by Mr. Eide and others to develop minimum humanitarian standards concerning respect for human rights in times of conflict. It was a very important issue and he hoped the seminar to take place shortly in South Africa would be fruitful. It was important to fill a gap in the United Nations machinery, which had no body entrusted with monitoring implementation of humanitarian norms.

47. Mr. TEITELBAUM (Association of American Jurists), speaking on agenda item 19, said it was regrettable that on two occasions the Commission on Human Rights had decided not to transmit to the Economic and Social Council a draft decision of the Sub-Commission authorizing a study of the question of the implications for human rights of United Nations action, including humanitarian assistance, to deal with international humanitarian problems, which in his view included so-called "peace-keeping" operations.

48. Such a study, for which Mrs. Palley had paved the way with her working paper E/CN.4/Sub.2/1994/39, would help to determine who was empowered to allocate responsibilities and order damages to be paid for injuries done to civilians as a result of violations of humanitarian law committed during certain operations, for example in Iraq. After the operation in that country, by its resolution 687 (1991) the Security Council had decided, with the support of the Secretary-General (document S/22559) and in defiance of general principles of law, to determine through its Compensation Commission who should be compensated. It should be recalled that the case of Iraqi civilians who had been the victims of those violations had not been taken into consideration. The study could also determine whether economic sanctions approved by one or more States, such as the Helms-Burton Act, outside of the competent bodies of the United Nations, because the State in question was violating human rights, were in keeping with international law.

49. At the initiative of the United States delegation, the Commission on Human Rights had rejected the idea of such a study, on the grounds that the Sub-Commission should avoid passing judgement on matters that came under the competence of other United Nations bodies. His organization believed that the delimitation of the respective spheres of competence of various United Nations bodies and the Sub-Commission's faculty under its mandate to conduct studies and pass judgement on anything to do with human rights should not be confused. A United Nations body or an agency could also violate those rights and in that regard did not enjoy any particular immunity, as was apparent from the Advisory Opinion rendered by the International Court of Justice on 11 April 1949. Because its expert members were independent, the Sub-Commission was undoubtedly the most appropriate body to denounce such transgressions.

50. In view of that unacceptable act of censorship by the Commission, the Sub-Commission should decide to entrust the study to Mrs. Palley, if necessary without any financial implications.

51. Mrs. PARKER (International Educational Development), speaking on agenda items 13 and 19, expressed her dismay at the fact that, under pressure from the United States Government, the Commission on Human Rights had rejected the draft study on the implications of humanitarian activities on the enjoyment of human rights. It was an attempt to limit the freedom of expression of the Sub-Commission, which was composed of independent experts and was competent to consider any issue pertaining to human rights.

52. The action of the United Nations could have consequences on human rights, as illustrated for example by recent events in Cyprus, in which two Cypriot demonstrators had been killed and several United Nations peace-keepers wounded. The Sub-Commission should look at the consequences of the occupation of a part of Cyprus, one which was continuing despite the resolutions of the United Nations and which had led to those tragic events. It could also consider the situation of persons abandoned to their fate by the United Nations, for example the Moluccans and Ache people, or the Kashmiris.

53. The attitude of the Commission on Human Rights was perhaps related to the existence of sanctions imposed on certain countries, Iraq in particular. Some Governments did not want the experts to consider the consequences of those sanctions on the fundamental rights of civilian populations, particularly the right to adequate food and medical care.

54. In a resolution adopted at a meeting chaired by Mrs. Margarita Papandreou (E/CN.4/Sub.2/1996/NGO/7), several NGOs had expressed a wish for the International Court of Justice to render an advisory opinion on the legality of the present sanctions against Iraq. The Sub-Commission had full authority to address such issues and she urged it to do so.

55. Mrs. GRAF (International League for the Rights and Liberation of Peoples) said that in Kosovo, the rights of Albanians, who accounted for 90 per cent of the population, were being violated by the Serbian authorities. Recently, the Serbian police had used the pretext of the murder of five Serbs to carry out punitive expeditions against the Albanian population, although there was no proof that the murders had been committed by Albanians. The international community should help the Albanians in their efforts to bring about a peaceful solution to the question of Kosovo. If a conflict erupted in that region, it might take on international dimensions.

56. The conflict in Nagorny Karabakh threatened peace in the Caucasus region: at the time of perestroika, the Azerbaijani authorities had responded with violence to the demands of the Armenians, who had been living in the region since time immemorial. To safeguard their right to life, the Armenians had had to wage a war that had lasted for three years and resulted in tens of thousands of deaths on both sides. Thanks to the efforts of the Russian Federation and the Organization for Security and Cooperation in Europe (OSCE), a cease-fire had been declared in 1994. When the elected authorities of Nagorny Karabakh had attempted to convert that tenuous cease-fire into a lasting peace, the President of Azerbaijan had said he was prepared to recover the territories with the use of force. Her organization urged the Sub-Commission to encourage the search for a peaceful solution to the problem of Nagorny Karabakh and to take steps to ensure the safety of the population.

57. Mr. AHLUWARIA (Liberation), speaking on agenda item 13, said that for the past 15 years the Punjab, in India, had been the scene of enormous violence, resulting in the death of 44,000 Sikhs and the disappearance of 20,000 others. The Sikhs were concerned for the preservation of their religious identity and also favoured the promotion of an egalitarian society. Consequently, they were opposed to the caste theory and fundamentalism.

58. The Sikhs were very committed to their religion and to their sacred temples, or Gurdwaras, particularly the Golden Temple at Amritsar. Yet the State was now endeavouring to call into question the All India Gurdwaras Act, which since 1925 had governed the conditions under which the temples were managed by the Sikh community. It was unacceptable interference in the community's religious and cultural affairs. Sikhs living in other countries

were being denied visas because of their opinions. His organization believed that to settle the problem peacefully, the international community, in cooperation with the Indian Government, must recognize the historic sovereignty of the Golden Temple, and the State of India must stop interfering in the religious and cultural affairs of the Sikhs.

59. Only mutual understanding and cooperation among all parties could bring about a resolution of the religious and ethnic conflicts, thereby ensuring international peace and stability.

60. Mrs. MONTSERRAT (Pax Romana), speaking on agenda item 13, said that every month anti-personnel land-mines killed 800 people and mutilated a thousand others. At the current pace minefields were being cleared, it would take about a thousand years to defuse them all, assuming that no new mines were laid. The international community should therefore redouble its efforts in helping to implement de-mining programmes, such as those undertaken by the United Nations Children's Fund (UNICEF) in the dozen countries most affected by that scourge.

61. Given the meagre results achieved by the Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, she appealed to all countries to adopt, as Belgium had done, laws prohibiting production and sale of and trade in such mines, both within and from their territory. Spain, for example, should go beyond the indefinite moratorium it had decreed on the export of such mines, which were not in any case of great military value and were used particularly to terrorize the civilian population. Public opinion called for such a prohibition. The Partido Popular, which had recently come to power, had even declared itself in favour of such a prohibition during the election campaign. Information on the production, stockpiling, trade and use of anti-personnel mines should be more transparent so that such companies as Explosivos Alaveses could no longer hide behind industrial secrecy, which only encouraged violations of human rights, humanitarian law and the Convention on the Rights of the Child.

62. The Sub-Commission should pronounce itself in favour of a total ban on the trade, production, stockpiling, transfer and use of anti-personnel mines and thereby help put an end to the flagrant violation of the fundamental rights of millions of persons.

63. Mr. YOKOTA said that, a short while ago, someone representing an NGO had, with regard to one of his statements, publicly cast doubt on his independence.

64. While trying to be as impartial and independent as possible, he found it necessary to protest strongly against such remarks, which neither a member nor an alternate member of the Sub-Commission would tolerate. He consequently demanded that the person in question officially apologize to him in writing.

65. Mrs. WARZAZI assured Mr. Yokota of her full support and recalled that she herself had been the target of similar allegations, which could only do

harm to all the NGOs. It would be wise to reflect on how to implement the Economic and Social Council resolution that defined the rights and obligations of NGOs in consultative status.

66. The CHAIRMAN said that that resolution would be distributed at the following meeting. Although NGOs, the majority of which collaborated constructively with the Sub-Commission, were free to express their opinions, they were none the less bound to respect the integrity and impartiality of its experts. He hoped that the person in question would apologize to Mr. Yokota.

The meeting rose at 1.10 p.m.